## UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION	) ) MDL No. 1456 ) ) CIVIL ACTION: 01-CV-12257-PBS
THIS DOCUMENT RELATES TO ALL CLASS ACTIONS	) Judge Patti B. Saris ) ) )

## DECLARATION OF ROBERT F. LOPEZ IN SUPPORT OF PLAINTIFFS' A) MOTION TO STRIKE AND B) MOTION IN LIMINE

- I, Robert F. Lopez, duly declare as follows:
- 1. I am one of the lawyers for the plaintiffs in the above-captioned matter. I submit this declaration in support of a) Plaintiffs' Motion To Strike References by the Schering-Plough Group in Their Opening Statement to Average Sales Prices for Schering-Plough and Warrick Drugs and b) Plaintiffs' Motion *in Limine* To Preclude the Introduction by the Schering-Plough Group of Evidence of ASPs for Schering-Plough and Warrick Drugs.
- 2. Attached as Exhibit A is a true and correct copy of Plaintiffs' Request for Production to Defendants Regarding HHS ASPs.
- 3. Attached as Exhibit B is a true and correct copy of the Response of Schering-Plough Corporation and Warrick Pharmaceuticals Corporation to Plaintiffs' Request for Production Regarding HHS ASPs.
- 4. Attached as Exhibit C is a true and correct copy of part of the transcript of the hearing held on September 27, 2004, to address, among other issues, plaintiffs' motion to compel

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regarding the production of ASP-related information and materials. The attached excerpt concerns that motion to compel.

I certify under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of November, 2006.

/s/ Robert F. Lopez

Robert F. Lopez

## **CERTIFICATE OF SERVICE**

I hereby certify that I, Robert F. Lopez, an attorney, caused a true and correct copy of the foregoing **DECLARATION OF ROBERT F. LOPEZ IN SUPPORT OF PLAINTIFFS' A) MOTION TO STRIKE AND B) MOTION IN LIMINE** to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on November 13, 2006, a copy to LexisNexis File & Serve for posting and notification to all parties.

By /s/ Robert F. Lopez
Robert F. Lopez
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## **EXHIBIT A**